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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,968	01/24/2002	Joanna Hong Zhang	J6721(C)	3889

201 7590 07/29/2003

UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER

WELLS, LAUREN Q

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 07/29/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/056,968

Applicant(s)

ZHANG ET AL.

Examiner

Lauren Q Wells

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-7. 6) ☐ Other:

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### **DETAILED ACTION**

Claims 1-9 are pending.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(i) Claim 3 is vague and indefinite, as it is confusing. What does it mean that the copolymer is partially formed from acryloyl dimethyltaurate as a monomer unit? Does it mean that acryloyl dimethyltaurate is only part of the monomer unit? The Examiner respectfully suggests that Applicant amend the claim to recite, "wherein the taurate copolymer comprises acryloyl dimethyltaurate as a monomer unit", to overcome this rejection.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (5,422,112) in view of Loffler et al. (InCosmetics, Dusseldorf) and in view of Beerse et al. (6,294,186).

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The instant invention is directed toward a composition comprising from 0.001-5% of a polysaccharide gum, 0.001-10% of a taurate copolymer, and a cosmetically acceptable carrier, wherein the composition has a pH less than 7.

Williams teaches thickened cosmetic compositions comprising a xanthan gum, an inorganic thickening agent, an alpha hydroxy carboxylic acid, and a cosmetically acceptable carrier. The gums are taught as comprising 0.01-5% of the composition. The pH of the compositions range from 1-8. Exemplified are compositions of 3.8-4 pH. Oil-in-water emulsions are taught as preferred cosmetic forms. The reference lacks taurate copolymers. See abstract; Col. 1, lines 45-54; Col. 3, lines 39-42; Col. 6, line 46.

Loffler et al. teach ammonium acryloyldimethyltaurate/vinyl pyrrolidone as a thickener for oil-in-water emulsions. The compound is taught as having good stability against degradation by high shear and UVA light; as having good compatibility with polar solvents, and as providing excellent sensoric properties to the user, such as good skin feel, low degree of stickiness and/or tackiness. See page 1.

Beerse et al. teach ammonium acryloyldiemthyltaurate/ vinyl pyrrolidone, xanthan gums, and synthetic clays, which are inorganic thickeners, as combinable thickeners for use in cosmetic compositions. See Col. 38, lines 25-31.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the ammonium acryloyldiemthyltaurate/ vinyl pyrrolidone, taught by Loffler et al., into the composition of Williams because Beerse et al. teach ammonium acryloyldiemthyltaurate/ vinyl pyrrolidone, inorganic thickeners, and xanthan gum, as combinable thickeners, and because of the expectation of achieving an oil-in-water emulsion that

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has good stability against degradation by high shear and UVA light and that provides good skin feel, low degree of stickiness and/or tackiness to the user.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to teach the taurate copolymer of the combined references as comprising 0.001-10% of the composition because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

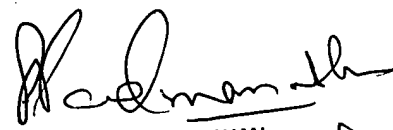
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lauren Q Wells whose telephone number is (703) 305-1878. The examiner can normally be reached on M-F (7-5:30), with alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (703)305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

lqw  
June 26, 2003

  
SREENI PADMANABHAN  
PRIMARY EXAMINER 6/26/03